THE HON'BLE MR JUSTICE L. NARASIMHA REDDY

And

THE HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL No.554 OF 2006

Date: 02-06-2006

Between :

D. Venkateswara Rao

… Appellant

And

The Government of Andhra Pradesh,

Rep.by its Principal Secretary,

Revenue,

Secretariat, Saifabad, Hyderabad and others. …Respondents.

THE HON'BLE MR JUSTICE L. NARASIMHA REDDY

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WRIT APPEAL NO.554 OF 2006

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JUDGMENT :

This writ appeal is directed against the order dated 31-5-2006 passed by the learned Single Judge in W.P.M.P.No.13232 of 2006 in W.P.No.10573 of 2006. Through the order under appeal, the learned Single Judge directed the writ petition to be listed

for admission on 5-6-2006 and declined to grant any interim order. The learned Single Judge, however, directed that any steps taken by the respondents in the meanwhile would be subject to further orders that may be passed in the writ petition.

Sri S.Ramachander Rao, learned senior counsel, made extensive submissions touching on the procedure adopted by the respondents in amending the Rules as well as in issuing the notification. He also submits that in view of the substantial changes bought about through the amended Rules as well as the resultant notification, it would be difficult for the writ appellant to participate in the auction and unless his interests are adequately protected, the very purpose of filing the writ petition would be defeated.

The learned Advocate General, on the other hand, submits that the amendment to the Andhra Pradesh Excise (Lease of Right of Selling by Shop and Conditions of Licence) Rules, 2005, effected through G.O.Ms.No.598, dated 26-5-2006 is not challenged. He further contends that the time-frame that was adopted during the previous Excise Year was virtually repeated during this year also and no exception could be taken to it. The learned Advocate General further points out that neither there exists prima-facie case in favour of the appellant/petitioner nor the balance of convenience is in his favour.

Though extensive submissions have been made by the learned senior counsel as well as the learned Advocate General, we do not propose to deal with the same, lest our observations, may have a bearing on the subject matter, when it is dealt with on 5-6-2006, by the learned Single Judge.

From a perusal of the time frame that is published by the respondents, it is evident that the tenders would be opened tomorrow and the successful tenderer would have time of fifteen (15) days i.e., till 18-6-2006 to furnish the bank guarantee, personal bonds etc., 26-6-2006 is notified as the notified date for identification of the premises for granting the licences. The licence so granted would become effective from 1-7-2006 onwards.

As of now, the appellant, who is the existing licencee for one of the shops,

alone, is before this Court. The process of issuance of licence to a successful tenderer would, any way, take its own time, and in no case it can be earlier than 6th or 7th June, 2006.

Therefore, we dispose of the writ appeal, directing that it shall be open to the appellant/writ petitioner to participate in the auction, which in turn, would be without prejudice to the right in the writ petition. Even if he does not participate in it, he shall be entitled to canvass his rights in the writ petition. In either of the events, we direct that, in case, the appellant does not emerge as the successful tenderer, issuance of the licence for the shop in Ward No.1, Jawahar Nagar No.1, shall be deferred till 8-6-2006. No costs.

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L. NARASIMHA REDDY, J.

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(B. SESHASAYANA REDDY, J)

Dt.02–06-2006

Msr/Pan